IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

RSA No. 1354 of 1985

DATE OF DECISION: 16 .5.2007

State of Punjab and another ...Appellants

VERSUS

Mohan Lal ...Respondent

CORAM

HON'BLE MR.JUSTICE PERMOD KOHLI

PRESENT: Mr.Palvinder Singh, Sr.DAG, Punjab
for the appellants

Mr.J.R.Mittal, Sr.Advocate with
Mr.Lalit Sharma, Advocate for the respondent

Permod Kohli,J.

This appeal has been directed against the order dated 24.11.1984 passed by the Additional District Judge, Bhatinda in Civil Appeal No.221/RT 65 of 1984. The appellants herein preferred an appeal against the judgment and decree dated 29.5.1984 passed by Sub Judge, III Class, Bhatinda, before the Additional District Judge, Bhatinda. Admittedly, the appeal was

beyond the period of limitation and accordingly an application under Section 5 of the Indian Limitation Act for condoning the delay was preferred. The Appellate Court has rejected the application for condonation of delay vide the impugned order and consequently, the appeal was also dismissed vide a separate order of the same date. The trial court passed the judgment and decree on 29.5.1984. An application for securing the copies of judgment and decree was made on 30.5.1984. Copies of the judgment and decree were prepared by the Copying Agency on 27.6.1984 and were delivered on 28.6.1984. The appeal was filed on 10.8.1984. The Appellate court held that there is a delay of 14 days in filing the appeal and has not accepted the explanation tendered by the appellants for condoning delay. At the first instance, it appears that the appellate court has not correctly calculated the number of days for purposes of delay. Actually, there is delay of 17 days in filing the appeal. The State of Punjab (Appellant) tried to explain the delay attributing the same to the law and order situation in the State of Punjab at the relevant time. However, the Appellate Court did not accept the explanation.

I have heard the learned counsel for the parties. There is a delay of only 17 days. It is not that there is no explanation. The explanation given by the State appears to be plausible because at the relevant time there was definitely law and order problem in the State of Punjab. Courts should be liberal in condoning the delay, particularly when it is of few days and there is plausible explanation.

In view of the above circumstances, I allow this appeal and set aside the impugned judgment and order dated 24.11.1984 passed by the Additional District Judge, Bathinda rejecting the application for condonation of delay as also dismissing the appeal as a consequence thereof. The case is accordingly remanded back to the Court of Additional District Judge, Bathinda for deciding the appeal on merits. The Appellate Court will decide the appeal within a period of six months from the date of appearance of the parties. Parties through their learned counsel are directed to appear before the trial court on 8.8.2007.

(PERMOD KOHLI)
JUDGE

16.5.2007
MFK

NOTE: Whether to be referred to the Reporter or not:YES/NO